IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6785 of 1991

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIVISINAL CONTROLLER - Petitioner(s)

Versus

HL ANTANI - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 21/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 18th May, 1990 in Reference [LCR] No. 369 of 1986 passed by the Labour Court, Rajkot, whereby the Labour Court has directed the petitioner to reinstate the respondent workman in service on his original post without back wages.

2. The short facts of the case are that the respondent was working as a Store Clerk in the Bhuj Depot of the petitioner Corporation. The respondent was dismissed from the service on 12.9.1975, on the ground that he had got missed four tubes on 7.8.1975 & 9.8.75 and on the basis of that the D.T.O, Bhuj on 22.8.1975 chargesheeted him and, thereby, initiated departmental proceedings.

2.1. Being aggrieved by the order of dismissal the respondent approached the competent authority of the petitioner Corporation. However, the said appeal also came to be dismissed by the competent authority. Thereafter the respondent workman preferred Second Appeal before the Appellate Authority of the petitioner Corporation, which also came to be dismissed.

2.2. Being aggrieved by the order of the Appellate Authority, the respondent raised industrial dispute, which was ultimately referred to the Labour Court, Rajkot for adjudication. The Labour Court, Rajkot after appreciating the material produced before it, allowed the said Reference with the aforesaid direction. Hence, this petition.

3. Mr. Raval learned advocate for the petitioner has contended that the Labour Court has erred in not appreciating the fact that the misconduct committed by the respondent was of a serious nature and the Labour Court ought not to have set aside the orders passed by the petitioner Corporation. He has further submitted that though the respondent workman had admitted the fact that he had unauthorizedly driven the bus, the Labour Court had

reinstated the respondent workman in service on his original post.

4. As against that Mr. Rathod learned advocate for the respondent has submitted that since the respondent had admitted the guilt that he had unauthorizedly driven the bus in the premises of the ST Workshop, and this being the single act of misconduct, the Labour Court was justified in reinstating the respondent in service on his original post.

5. I have heard the learned advocates for the respective parties. Having perused the materials produced on record, it appears that the respondent was working as a Store Clerk in the Bhuj Depot of petitioner Corporation and the allegation with regard to unauthorizedly driving the bus was the only single act of misconduct. Apart from that, the respondent workman has admitted the said misconduct. Therefore, in my opinion, the Labour Court has rightly exercised the power under Section 11A of the Industrial Disputes Act, 1947 in favour of the respondent.

6. In the result, the petition is dismissed. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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